

**STATEMENT OF SENATOR GEORGE J. MITCHELL
CHAIRMAN OF THE SPECIAL BID OVERSIGHT
COMMISSION OF THE UNITED STATES OLYMPIC COMMITTEE
BEFORE THE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION
April 14, 1999**

Mr. Chairman and members of the Committee, I am pleased to appear before you today to discuss the recent public controversies involving the selection of host cities and the related activities of members of the International Olympic Committee. My testimony focuses on the Report of the Special Bid Oversight Commission of the United States Olympic Committee as well as events that have transpired since we issued that Report.

Formation and Findings of the Commission

In December 1998, Bill Hybl, the President of the United States Olympic Committee (USOC), appointed a five-member Special Bid Oversight Commission to review the circumstances surrounding the selection of Salt Lake City to host the 2002 Winter Olympics. I agreed to Chair the Commission, and serve on it with my Vice Chairs Ken Duberstein and Donald Fehr and its members Roberta Cooper Ramo and Jeff Benz. Richard A. Hibey is Counsel to the Commission.

On March 1, 1999, we issued our Report to the USOC. The findings and recommendations in our Report are exclusively those of the members of this Commission and its counsel. We were unanimous in our conclusions; there was no disagreement among us.

Our Commission found that the troubling events in Salt Lake City, and other host cities, are attributable to the fact that ethical governance has not kept pace with the rapid expansion of the Olympic Movement. The Olympic Games have become big business for sponsors, host cities, athletes, and the organizations that make up the

Olympic Movement.

The intense competition to host the Olympic Games, coupled with the multi-billion dollar enterprise that results from winning that competition, have exposed the weaknesses in the Movement's governing structure and operational controls. Despite the fact that everyone recognizes the Olympics to be a huge commercial enterprise, the IOC and its constituent organizations lack the accountability and openness in keeping with the role the Olympic Games play in the world today. The commercial success of the Olympic Games creates both the opportunity to better the Games and the potential for abuse. In order to eliminate that potential and to restore the integrity of the Olympics with the public, there must be reform at every level of the Olympic Movement.

It was wrong for Salt Lake City officials to give money to IOC members and their families to win their votes. But what happened in Salt Lake City was not unique. In 1991, Toronto officials reported to the IOC that city's experience in the Olympic site selection process. In strikingly prophetic language, they warned of the consequences of improper gift-giving behavior. The Toronto prophecy has come true. As a result, credibility of the Olympic Movement has been gravely damaged.

As the organization with exclusive responsibility over the conduct of the Olympic Games when held in the United States, the USOC shares responsibility for the improper conduct of the bid and organizing committees in Salt Lake City. This responsibility flows from its failure to assure that United States candidate cities not seek to influence IOC members in the selection process by improperly providing them with things of value. Moreover, certain USOC personnel knew that the bid and organizing committees were using the USOC's International Assistance Fund to influence or pay back IOC members for their site selection votes.

We were asked to review "the circumstances surrounding Salt Lake City's bid to host the Olympic Winter Games," and to make recommendations "to improve the policies and procedures related to bid processes." We did that. In the process, we

concluded it would be impossible to improve such policies and procedures unless there was significant change by and within the IOC. The activity of the Salt Lake committees was part of a broader culture of improper gift giving in which candidate cities provided things of value to IOC members to buy their votes. This culture was made possible by the closed nature of the IOC and by the absence of ethical and transparent financial controls in its operations.

In each improper transaction, there was a giver and a taker; often the transaction was triggered by a demand from the taker. We do not excuse or condone those from Salt Lake City who did the giving. What they did was wrong. But, as we have noted, they did not invent this culture; they joined one that was already flourishing.

The Commission's call for reform is rooted in the concept of fair play. Competition should not be weighted in favor of a city that spends the most on IOC members. The selection process should be free of improper influence on IOC members and should be made, instead, on the basis of which city can best stage the Olympic Games.

We believe those concerned about the future of the Olympic Games must recognize that true accountability for this mess does not end with the mere pointing of the finger of accusation at those who engaged in the improper conduct. Those responsible for the Olympic trust should have exercised good management practices, should have inquired into the purpose and propriety of programs, should have followed expenditures, and should have set a proper framework for those competing to host the Games.

Recommendations of the Commission

In our Report, we made a series of recommendations. Principal among them are:

1. Bid cities should be prohibited from giving to members of the USOC or the IOC anything of more than nominal value, and from directly paying the expenses of members of the USOC or IOC. Travel to bid

cities and other expenses should be paid out of a central fund administered by the USOC in the selection of a U.S. candidate city, and out of a central fund administered by the IOC in the selection of a host city;

2. The USOC must strengthen its oversight of the site selection process by:
 - (a) establishing an independent Office of Bid Compliance;
 - (b) prohibiting bid and candidate cities from having or participating in any international assistance program;
 - (c) strictly applying the criteria for the award and administration of its International Assistance Fund; and
 - (d) strengthening its Bid Procedures Manual and its Candidate City Agreement.
3. The IOC must make fundamental structural changes to increase its accountability to the Olympic Movement and to the public:
 - (a) a substantial majority of the IOC's members should be elected by the National Olympic Committees for the country of which they are citizens, by the International Federations, and by other constituent organizations. The athlete members should be chosen by athletes. There should be increased membership from the public sector which best represent the interests of the public;
 - (b) the IOC's members and leaders should be subject to periodic re-election with appropriate term limits;
 - (c) the IOC's financial records should be audited by an independent firm, and the results of the audit disclosed publicly, at least yearly; and
 - (d) appropriate gift giving rules, and strict travel and expense rules should be adopted and vigorously enforced.

We also recommended that the USOC consider requesting the President of the United States, in consultation with other governments, to name the IOC “a public

international organization" within the meaning of Foreign Corrupt Practices Act, as amended. The FCPA prohibits United States corporations and citizens from bribing foreign *public* officials to secure business. Because Salt Lake City's bid committee provided things of value to influence the vote on host city selection by the IOC--a *private* entity under Swiss law--there was no involvement by a foreign public official and, thus, no implication of the FCPA.

Now, under our proposal, host city competitions could fall under the FCPA. Thirty-four nations, including the United States and every member of the European Union, recently adopted the Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Transactions (OECD Convention) to combat globally corruption in international business transactions. Similar to the FCPA, the OECD Convention outlaws commercial bribery of public officials. Unlike the original provisions of the FCPA, however, the Convention expands the definition of public officials to include "public international organizations."

On November 10, 1998, President Clinton signed the International Anti-Bribery and Fair Competition Act of 1998, which amended the FCPA to conform to the OECD Convention. The FCPA now applies to the bribery of officials of "public international organizations," such as the World Bank and the International Committee for the Red Cross, a private entity under Swiss law. Just as the Red Cross is a public international organization under the FCPA, no restriction exists preventing the same designation to the IOC. The FCPA also authorizes the President to designate by Executive Order other organizations to be public international organizations subject to the FCPA.

The IOC is the perfect example of a public international organization. As odd as it sounds, the Olympic Games are the "exclusive property" of the IOC, which, as in the case of the International Committee of the Red Cross, is a private entity under Swiss law. It owns the right to organize and broadcast the Games. The IOC enjoys the

fruits of a multi-billion dollar enterprise made possible by television broadcast rights and lucrative sponsorships. Its responsibilities to athletes and the public belie the IOC's legal status as a private entity under Swiss law.

The Commission also recommended that the IOC require a prospective host country of the Olympic Games to enact an antibribery law according to the principles of the OECD Convention. Our Commission recommended that, where no such law exists, no city in that country will be considered for site selection for any Olympiad until the situation is changed. Of the twenty-one nations that have hosted or are scheduled to host the Olympic Games, nineteen are signatories to the Convention.

The Commission recognizes its recommendations address the "supply" side of improper attempts to influence IOC officials. The FCPA's prohibitions do not extend to those officials who solicit or receive the bribes. While a clear ban on those who give bribes will go a long way toward eradication of the improper gift giving practice in the Olympic community, this is only half the equation. That is why the Commission recommended that the IOC prohibit, pursuant to its own rules, the receipt of anything of other than minimal value from or on behalf of any city competing to host the Olympic Games.

By combating bribery in host city competition with the force of law, these proposals level the playing field for all competing cities. It says to the world that improper gift giving will no longer be part of host city competition. One of the measures of the IOC's commitment to reform will be its response to these proposals. A clean competition is possible only if it is conducted by a clean organization. The IOC must transform itself, and the antibribery initiative is one way to accomplish this.

The USOC's Response to the Commission's Findings and Recommendations

On March 3, 1999, the USOC Executive Committee adopted all four of the Commission's recommendations. In addition, Bill Hybl sent a letter to President Clinton

on March 3, 1999 asking the President to designate the IOC a “public international organization.” We commend the USOC for accepting its share of responsibility for the events in Salt Lake City and deciding to adopt meaningful reform to ensure those events are not repeated in future bid cities.

Supplemental Report of the IOC ad hoc Commission

On March 12, 1999, the IOC's *ad hoc* Commission issued its supplemental report. The supplemental Report addresses specific cases and recommends action ranging from exoneration to expulsion. It recommended the expulsion of six IOC members and recommended that the IOC Executive Board issue warnings of varying degrees to nine IOC members.

In our Report we criticized both the givers and the takers in the inappropriate gift giving process. Unfortunately, the IOC's *ad hoc* Commission sought to place most of the blame on the givers, suggesting that IOC members were victims of predator bid cities. This approach is unnecessarily defensive and is inaccurate. It would be far better for the IOC to accept its responsibility for these improper activities and to make the changes necessary to prevent them from recurring. Expelling the most egregious offenders and blaming the bid cities will not be sufficient if the IOC is to repair its credibility.

IOC Emergency Meeting on March 17-18, 1999

The actions taken by the IOC at its meetings on March 17-18 are steps in the right direction, but much more remains to be done. The IOC membership voted to expel the six members recommended for expulsion by the *ad hoc* Commission. Four other members resigned before the meeting, bringing the total number of removed IOC members to ten. The IOC did not expel the two most prominent members linked to the scandal; at least one reportedly remains under investigation.

The IOC changed the process for electing host cities. At least for the selection of the host city for the 2006 Winter Olympics, IOC members will not be allowed to travel to the bid cities at the bid cities' expense. This action should eliminate the most egregious opportunity for abuse in the site selection process.

The IOC created a 6-7 member ethics panel, expected to be operational within a month. It will include a majority of non-IOC members and will take over any new inquiry that may come out of the reviews of past Olympic city bids. President Samaranch will appoint the members of the panel.

The IOC established a 20-24 member study group, half outside the IOC, to recommend structural changes in the organization, ranging from composition of the IOC to distribution of revenues. Dubbed "IOC 2000," the group reportedly will make its first report to the IOC in June 1999, with the target for implementation of recommended changes the end of the year. President Samaranch will Chair that group and will appoint its participants. Bill Hybl was the second person appointed by President Samaranch to sit on this study group.

The IOC also released an audit showing that the Olympics are in good financial health.

Despite these positive steps, there is much work for the IOC to do to restore credibility to the Olympic Movement. Our Report concluded that substantive reforms are essential if the IOC is to lead the Olympic Movement into the next millennium. Some of the reforms recommended by our Report require debate both within and outside the IOC. We commend the IOC for creating a panel with a view to improving the accountability of the IOC's governing structure and the transparency of the IOC's financial controls.

Unfortunately, the IOC has taken no action to enact the reform recommended by us that could serve as a bridge to the next millennium until the IOC finalizes the details of systemic reform needed within the IOC. That is, all six nations vying for the 2006 Winter Olympics are signatories to the OECD Convention (Austria,

Finland, Italy, Poland, Slovakia and Switzerland). We are aware of no action by the IOC to require these six countries to denominate the IOC as a public international organization under their laws pursuant to the anti-bribery provisions of the OECD Convention. Nor has the IOC explained its failure to do so. As we stated in our Report, such action would truly level the playing field for all competing cities. It would eliminate graft as an indispensable part of the bid process. It would also demonstrate to the world the IOC's resolve to enact meaningful reform within the Olympic Movement.

The Future of the IOC and the Olympic Movement

Not surprisingly, our Report received a fair amount of media attention for what it did not recommend: We did not recommend the removal of any IOC members from their positions of power. It was our view that the emphasis should be on changing the system, not on any individual. In our Report, we concluded that the IOC's structure--the lack of openness and accountability, the closed, self-perpetuating membership--directly contributed to the improper gift-giving culture. It is that which must be changed, and soon, if the IOC is to regain its credibility. Those running the Olympic Games must aspire to and be held to the same high standards of openness and integrity that Olympic athletes are expected to meet.

If President Samaranch and the entire leadership of the IOC retired tomorrow, and there were no other changes, the problems of the IOC would continue. Of course, if they continue in office, then everyone--athletes, the public, and sponsors--has a right to expect that they will institute structural change promptly. We viewed the IOC's meeting on March 17-18, 1999 as an early measure of the IOC's resolve to end this crisis with the reforms so obviously needed. Unfortunately, the IOC has not fully accepted its share of responsibility for the events in Salt Lake City. Nor has the IOC expressed its commitment to enact the reforms necessary to restore the integrity of the Olympic Movement.

We did not expect the IOC's reforms to be immediate, but we did expect them to be meaningful. If the IOC is not disposed to reform itself, the onus for such change may fall to Congress and the Olympic sponsors since the money from broadcast rights and sponsorship deals is the lifeblood of the IOC. The start of the Summer Games in Sydney in 2000 will not extinguish the demand or need for meaningful reform within the IOC. If the odor of scandal is allowed to hang over the Olympic Movement, those Games will lose their meaning and, worse, will take on a new meaning--one that speaks of excess, elitism and money. Total reform is the only hope.